GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Social Welfare Department – Appeal Petition filed by Sri Kolakaluri Koteswara Rao, S/o Nagaiah, Occ: Z.P.T.C.Member, Guntur District, against the proceedings Rc.No.773/2014/C4, dated 24.11.2018 of the District Collector, Guntur, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders -Issued.

SOCIAL WELFARE (CV.1) DEPARTMENT

G.O.Ms.No.71 Dated: 25.02.2019

Read the following:

1. Proceedings of the District Collector, Guntur, Rc.No.773/2014/C4, dated 24.11.2018.
2. The Order of the Hon'ble APHC in W.P.No.47034/2018, dated 30.01.2019 filed by Sri Kolakaluri Koteswara Rao.
3. Appeal Petition filed by Sri Kolakaluri Koteswara Rao, S/o Nagaiah, Occ: ZPTC Member, through his Counsel, before the Hon'ble (SWE&C), Endt No. 1915/SWE&C/2018, dt: 26.12.2018.
4. Govt. Memo No.SOW01-SW0CERT(CC)/1/CV.1/2019, dated: 01.01.2019.
5. Vakalath filed by Sri K. Durga Prasad, N.Yugandhar Rao & M. Krishna Kishore, advocates, on behalf of Sri Jandrasupalli Nageswara Rao, S/o Sesharao on 05.01.2019.
6. Govt. Memo No.SOW01-SW0CERT(CC)/1/CV.1/2019, dated: 11.01.2019.
7. From the District Collector, Guntur, Lr.Rc.No.06/2019/C4, dt: 31.01.2019.
8. Govt. Memo No.SOW01-SW0CERT(CC)/1/CV.1/2019, dated: 05.02.2019.
9. Govt. Memo No.SOW01-SW0ACTS-7/CV.1/2019, dt:12.02.2019.
10. Records/ Documents filed by the appellant, before the Appellate Authority on 16.02.2019.

<><><>

ORDER:

In the reference 1st read above, the District Collector, Guntur has issued orders cancelling SC-Hindu Madiga caste certificates obtained from the then Mandal Revenue Officer, Guntur & Tahsildar, Guntur in the year 2002 & 2014 by Sri Kolakaluri Koteswara Rao, S/o Nagaiah.

2. In the reference 2nd read above, Sri Kolakaluri Koteswara Rao, S/o Nagaiah has filed W.P.No.47034/2018 before the Hon'ble High Court of Andhra Pradesh, against the proceedings Rc.No.773/2014/C4, dated 24.11.2018 of the District Collector, Guntur. The Hon'ble High Court of Andhra Pradesh, while disposing the said WP on 30.01.2019 has directed the Government to receive the appeal filed by the petitioner under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 and Rules, 1997, if it is an order & the interlocutory application filed for suspension of the impugned order may be disposed of within one week thereafter in accordance with law. Due to several administrative difficulties the matter could not be disposed off within the time limit as directed by the Hon'ble High Court in the said W.P., however, after giving notices from time to time to the Appellant through his Counsel the matter has been examined by the Appellate Authority.

3. In the reference 3rd read above, Sri Kolakaluri Koteswara Rao, S/o Nagaiah, has filed the appeal petition before the Government, against the proceedings of the District Collector, Guntur. After examining the said Appeal Petition, Government have admitted the Appeal Petition & called for the parawise remarks and connected records from the District Collector, Guntur in the reference 4th read above.

4. In the reference 5th read above, Sri K. Durga Prasad, N.Yugandhar Rao & M. Krishna Kishore, advocates have filed Vakalath on behalf of Sri Jandrasupalli Nageswara Rao, S/o Sesharao (un-official respondent) before the Appellate Authority on 05.01.2019.

[P.T.O]

5. In the reference 6th read above, the District Collector, Guntur has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri Kolakaluri Koteswara Rao, S/o Nagaiah.

6. The said Appeal Petition has been posted for hearing on 05.01.2019, 02.02.2019, 09.02.2019 & finally on 16.02.2019 and the same has been informed to the Appellant and the Counsel for the Appellant in the references 4th , 6th, 8th & 9th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. In the reference 10th read above, the appellant through his Counsel, has filed documents, before the Appellate Authority , in support of his SC-Hindu Madiga caste community claim & argued the case and heard the case on both sides.

7. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, Guntur and proceedings of the District Collector, Guntur, dated 24.11.2018 , the Appellate Authority has observed that :

I. The appellant in his grounds has stated that the District Collector has not given proper and legal opportunity to him to produce documents and passed orders erroneously without following the procedure. Further, he has stated that in his entire school record his caste recorded as 'SC-Hindu Madiga' community. He has also stated that the findings of the authorities that he has also contested as Sarpanch in Vengalayapalem Panchayathi in the name of Kolakuru Jacob, S/o Francis and himself i.e. Sri Kolakaluri Koteswara Rao, S/o Nagaiah are one and the same is absolutely false.

II. The District Level Scrutiny Committee has observed that the Revenue Divisional Officer, Guntur has reported that Sri Kolakaluri Koteswara Rao S/o Nagaiah and Sri Kolakaluri Jacob, S/o Francis are one and the same & he has contested for Sarpanch of the Vengalayapalem village in 1995 elections, which was reserved for BC category by producing BC-C caste certificate, and again he has contested in 2014 elections for Zilla Parishad Territorial Constituency (ZPTC), Rural under SC category by producing SC caste certificate. The DLSC has also observed that the individual's marriage has been performed in the Church located in Vengalayapalem village duly observing Christian faith & the individual is following Christianity. Before the DLSC, he has not produced any relevant documents in support of his SC-Hindu Madiga community claim. Based on the findings of the DLSC, the District Collector has cancelled the appellant's caste certificate.

III. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

IV. The Appellate Authority has observed that during the course of hearing of the case, the appellant submitted his arguments as per his grounds in appeal petition and stated that the lower authority failed to observe that he is Hindu Madiga by birth and his school records clearly shows the same and on that score alone it can be presumed that he belongs to Schedule Caste and further stated that person who filed complaint before the lower authority failed to prove that he contested in 1995 elections with BC-C caste certificate and the said certificate is of Kolakaluri Jacob and not his certificate. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that except the above contention nothing was placed for appreciation of the case of the appellant and further it is noticed from the record that as per the revenue enquiry and other documents it is clearly established that Sri Kolakaluri Koteswara Rao S/o Nagaiah and Sri Kolakaluri Jacob S/o Francis are one and the same and it is further observed that the appellant contested in the 1995 elections on a BC-C community certificate and on a SC community certificate in 2014 elections.

[Contd.. on P.3]

That as per the Act 16/1993, the burden of proof lies on the appellant and it is the responsibility of the appellant to produce necessary independent evidence and documents in support of his claim. As seen from the record, the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity either in the findings of the DLSC or the learned District Collector, Guntur District. That considering the above, and the material available on the record, it can be concluded that the lower authority passed the order as per law which does not deserve any interference.

8. In view of the several cogent reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act No.16 of 1993), decide that the appeal petition filed by Sri Kolakaluri Koteswara Rao, S/o Nagaiah, does not deserve any interference. Hence, Proceedings of the District Collector, Guntur issued vide Rc.No.773/2014/C4, dated 24.11.2018, is hereby upheld and the Appeal Petition filed by Sri Kolakaluri Koteswara Rao, S/o Nagaiah, is hereby dismissed and the Community Certificates issued by the then Mandal Revenue Officer, Guntur & Tahsildar, Guntur are cancelled .

9. The District Collector, Guntur is directed to take necessary consequential action in the matter.

10. The records (Rc.No.773/2014/C4 containing in (III) volumes in pages 1-1119) received from the District Collector, Guntur through in the reference 7th read above, are returned herewith in original to the District Collector, Guntur and he is requested to acknowledge the receipt of the same, immediately.

(**BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)**

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Guntur.
(with original records) (BY RPAD)

The Mandal Revenue Officer, Guntur.

Sri Kolakaluri Koteswara Rao,
S/o Nagaiah,
Z.P.T.C. Member, Guntur District.

Sri G. Krishna Rao,
T. Durga Prasad, G.V.Subba Rao,
M. Prasad, Advocates,
R.V. Towers, 2/17 Brodipet, Guntur.

Sri Jandrasupalli Nageswara Rao,
S/o Sesharao, Perecharla Village,
Medikonduru Mandal, Guntur District.

Sri K. Durga Prasad,
Sri N. Yugandhar Rao,
M. Krishna Kishore, advocates (through Sri Jandrasupalli Nageswara Rao)
Copy to:
The PS to M(SWE& C).
The PS to Principal Secretary(SW).

// FORWARDED:: BY ORDER //

SECTION OFFICER